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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/374,279	01/18/95	CHIU	C 1477A-2
		13M1/0320	WONG, L EXAMINER
			ART UNIT PAPER NUMBER
			1302 7
			DATE MAILED: 03/20/96

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

for restriction purposes only

This application has been examined Responsive to communication filed on 12/8/95 This action is made final.

A shortened statutory period for response to this action is set to expire 1 month(s), 0 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. Notice of References Cited by Examiner, PTO-892.
2. Notice of Draftsman's Patent Drawing Review, PTO-948.
3. Notice of Art Cited by Applicant, PTO-1449.
4. Notice of Informal Patent Application, PTO-152.
5. Information on How to Effect Drawing Changes, PTO-1474.
6.

Part II SUMMARY OF ACTION

1. Claims 1-34 are pending in the application.
Of the above, claims _____ are withdrawn from consideration.
2. Claims _____ have been cancelled.
3. Claims _____ are allowed.
4. Claims _____ are rejected.
5. Claims _____ are objected to.
6. Claims 1-34 are subject to restriction or election requirement.
7. This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. Formal drawings are required in response to this Office action.
9. The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are acceptable; not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).
10. The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been approved by the examiner; disapproved by the examiner (see explanation).
11. The proposed drawing correction, filed _____, has been approved; disapproved (see explanation).
12. Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has been received not been received been filed in parent application, serial no. _____; filed on _____.
13. Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. Other

EXAMINER'S ACTION

The communication filed on December 8, 1995 is non-responsive to the prior Office action because Applicant has not appropriately responded to the restriction set forth in Paper No. 4. Applicant states "(a)pplicants respectfully point out that the Restriction Requirement appears to be incorrect. It is for Claims 1-34 whereas Applicants' specification contains Claims 1-28." Applicants' specification contains claims 1-34 and Applicants' response should be based on these claims. The restriction requirement is repeated below.

Since the response appears to be *bona fide*, but through an apparent oversight or inadvertence failed to provide a complete response, applicant is required to complete the response within a time limit of one month from the date of this letter or within the time remaining in the response period of the last Office action, whichever is the longer. NO EXTENSION OF THIS TIME LIMIT MAY BE GRANTED UNDER EITHER 37 C.F.R. § 1.136(a) OR (b) BUT THE PERIOD FOR RESPONSE SET IN THE LAST OFFICE ACTION MAY BE EXTENDED UP TO A MAXIMUM OF SIX MONTHS.

Election/Restriction

Restriction to one of the following inventions is required under 35 U.S.C. 121:

Group I. Claims 1-11, drawn to a starch, classified in Class 127, subclass 32.

Group II. Claims 12, 16, and 17, drawn to a process for making a starch, classified in Class 127, subclass 34.

Group III. Claims 13-17, drawn to a process for making a starch, classified in Class 127, subclass 34.

Group IV. Claims 18-28, drawn to a flour, classified in Class 426, subclass 658.

Group V. Claims 29, 33, and 34, drawn to a process for making a flour, classified in Class 426, subclass 465.

Group VI. Claims 30-32 and 34, drawn to a process for making a flour, classified in Class 426, subclass 465.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (M.P.E.P. § 806.05(f)). In the instant case the product as claimed can be made by another and materially different process such as with pH adjustment. Inventions I and III are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process

(M.P.E.P. § 806.05(f)). In the instant case the product can be made by a materially different process such as without pH adjustment.

Inventions IV and V are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (M.P.E.P. § 806.05(f)). In the instant case the product as claimed can be made by another and materially different process such as with pH adjustment. Inventions IV and VI are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (M.P.E.P. § 806.05(f)). In the instant case the product can be made by a materially different process such as without pH adjustment.

Furthermore, as between the subject matter of the claims of Group I and claims of Groups IV, V, and VI; as between the subject matter of the claims of Group II and the claims of Groups III, IV, V, and VI; as between the subject matter of the claims of Group III and the claims of Groups IV, and V, and VI; and as between the subject matter of the claims of Group V and the

claims of Group VI, it is considered that each set of claims to the other are drawn to mutually exclusive subject matter. The requirements of one set of claims to the other are not mandatory.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by both their different classification and their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leslie Wong whose telephone number is (703) 308-1979. The examiner can normally be reached on Monday-Thursday from 7:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Donald E. Czaja, can

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be reached on (703) 308-3852. The fax number for this Group is (703) 305-3602.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0651.


Leslie Wong
Primary Examiner
Art Unit 1302

LAW
March 14, 1996